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10  
11 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
12 **OAKLAND DIVISION**

13  
14 C. JAY SMITH (a/k/a CARY KEETON SMITH),

15 **Plaintiff,**

16 v.

17 RALPH DIAZ; RON DAVIS; T. DUKE; R.  
18 FESTON; B. HAUB; M. BLOISE; Y. FRANCO; and  
M. TAYLOR,

19 **Defendants.**  
20  
21

Case No. 4:20-cv-04335-HSG

**JOINT STIPULATION AND  
ORDER TO RESCHEDULE  
HEARING DATE ON MOTION TO  
DISMISS (as modified)**

Judge: Hon. Haywood S. Gilliam, Jr.  
Trial Date: Not Set  
Action Filed: June 29, 2020

Hearing Date on MTD: December 8, 2022  
2:00 pm

22 Under Local Rule 6-2, Plaintiff C. Jay Smith ("Plaintiff") and Defendants Diaz, Davis, Duke,  
23 Feston, Haub, Bloise, Franco, and Taylor (collectively "Defendants"), by and through their respective  
24 counsel of record, hereby stipulate and jointly request as follows:

25 WHEREAS, on June 10, 2022, Defendants Diaz and Davis filed a Motion to Dismiss claims  
26 against them in Plaintiff's First Amended Complaint and the hearing date for the Motion is set for  
27 December 8, 2022 at 2:00 p.m. (ECF No. 43);

28 WHEREAS, on June 24, 2022, the Parties requested, through a joint stipulation, that Plaintiff's

1 deadline to oppose Defendants Diaz and Davis's Motion to Dismiss be extended to September 16, 2022  
 2 and that Defendants' reply be due on October 7, 2022. The Parties also requested that Defendants  
 3 Bloise, Duke, Feston, Franco, Haub and Taylor's deadline to file a responsive pleading be stayed until  
 4 14 days after the Court rules on the Motion to Dismiss filed on behalf of Defendants Diaz and Davis  
 5 (ECF No. 46);

6 WHEREAS, on June 27, 2022, the Court granted the requested time extensions and proposed  
 7 briefing schedule. (ECF No. 47);

8 WHEREAS, on September 9, 2022, the Parties requested, through a joint stipulation, that  
 9 Plaintiff's deadline to oppose Defendants' Motion to Dismiss be extended by seven (7) days, up to and  
 10 including September 23, 2022 and Defendants' deadline to reply to Plaintiff's opposition brief be  
 11 extended by seven (7) days, up to and including, October 14, 2022 (ECF No. 48)

12 WHEREAS, on September 12, 2022, the Court granted the requested time extensions. (ECF No.  
 13 49);

14 WHEREAS, on November 9, 2022, Lead Attorney Felicia Medina informed Defendants that she  
 15 unexpectedly has to be on a leave of absence the week of December 5, 2022, including during the  
 16 December 8, 2022 hearing on Defendants' Motion to Dismiss. Further, Counsel for Defendants has a  
 17 trial in January.

18 THEREFORE, IT IS HEREBY STIPULATED, by and between the Parties, through their  
 19 respective counsel of record, and subject to Court approval, that if the Court was not going to rule on the  
 20 papers prior to the hearing, that the December 8, 2022 hearing date be rescheduled to February 3, 2023,  
 21 or a date soon thereafter that is most convenient for the Court.

22 **IT IS SO STIPULATED.**

23 Dated: November 22, 2022

/s/ Janet N. Chen

24 Janet N. Chen, Supervising Deputy Attorney  
 25 General  
 26 *Attorney for Defendants*

27 Dated: November 22, 2022

/s/ Felicia Medina

28 Felicia Medina, Medina Orthwein LLP  
*Attorney for Plaintiff*

  
Hon. Haywood S. Gilliam, Jr.

Hon. Haywood S. Gilliam, Jr.  
U.S. District Court Judge